

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:

John H. Stevens

Serial No.:

10/047581

Art Unit: 3738

Filed :

October 23, 2001

Examiner: C.D Prone

For :

Endovascular Aortic Valve Replacement

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05/25/2011

Julie Chan-Moroney

Date of Transmission  
and Signature

Name of Applicant, Assignee, or  
Authorized Representative

/Julie Chan-Moroney/

Signature

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO ACCEPT**  
**AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY**

Dear Sir:

This Petition is to correct an unintentionally delayed claim of priority in the above pending application and is in further response to the Decision Dismissing Petition Under 37 CFR 1.78(a)(3) mailed April 14, 2011. The Decision Dismissing the Petition of April 14, 2011 identified an error with the separation of the Petition and its attached Appendices. This Petition now provides two separate Appendices. This Petition is resubmitted and is in response to the Notice of Dismissal of Petition mailed May 10, 2011. An amendment correcting the cited deficiency in the Specification is submitted concurrently with this Petition.

The Decision Dismissing the Petition dated February 18, 2011 identified an error in listing the filing date of Application No. 08/615,481. While this error is corrected below, the reason for Applicant's unintentionally delayed claim of priority remains as stated in the

Applicant's Petition of September 20, 2004, namely that Applicant's representative received an Office Action dated March 19, 2004, and while preparing to respond to the Office Action, noted an error in the priority claim.

Applicant hereby petitions the Commissioner under 37 C.F.R. § 1.78(a)(3) to claim the benefit under 35 U.S.C. § 120 of earlier filed applications in the United States. The claim of priority is as follows:

This application is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 15, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial No. 08/206,419 filed on March 4, 1994, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559 filed on July 16, 1991, now U.S. Patent No. 5,370,685.

As provided in the original Petition, the entire delay between the date the priority claim was due under paragraph § 1.78(a)(2)(ii), four months from the actual filing date of this application (i.e., February 23, 2002) and this date was unintentional. When the current application was filed, priority was claimed to the parent application, U.S. Patent Application Serial No. 08/615,481, as indicated in box 18 of the Transmittal Sheet dated October 23, 2001, attached as Appendix A.

Upon receiving a Restriction Requirement dated June 18, 2002. Applicant noted that the priority claim had not been amended to claim priority to the earliest priority date to which the application was entitled. Applicant filed an Election and Amendment dated July 16, 2002, that amended the specification to add the priority claim. A copy of the Election and Amendment is attached as Appendix B. While the amendment appropriately claimed priority (albeit with an error in the filing date of Serial No. 08/206,419), the amendment was made after the four-month period permitted under 37 C.F.R. § 1.78(a)(2)(ii).

As stated above, Applicant's representative first became aware of the need to correct the priority statement while preparing to respond to the outstanding Office Action dated March 19, 2004, and promptly filed a Petition.

Please charge the surcharge set forth in 37 CFR § 1.17(t) \$1,410.00 to Account 10-0750/HRT0287/TJS and any additional surcharge or fee that is required in connection with this petition.

Please feel free to contact me, if any further information is required at (732)524-2498.

Respectfully submitted,

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DATE: May 25, 2011